

# *Legal Issues and Procedures*



Presentation to Section 508  
Coordinators  
September 29, 2000

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- Information Gathering Session
- Major Discussion Points
  - Definitions
  - Scope: What and Who is covered
  - Relationship to other regulations and directives
  - Enforcement
- Suggestions

# *Highlights of Information Gathering Session*



- Undue Burden/Hardship
- What is a disability?
- How does 508 relate to 504 and 501
- How do you deal with inaccessible information provided to your agency?
- Who is responsible for agency compliance?
- Who may file a complaint and under what circumstances?

# *Definitions*



## – What is Undue Burden?

- Significant difficulty or expense when considered in light of certain factors (to be defined by FAR)
- If no products exist in a class, 508 would not apply
- Need to document process and information that lead to determination.
- Still need to provide information in alternative format
- Doesn't include circumstances such as no eligible person with a disability will be using the covered equipment.
- May include legacy systems, depending on factors.

## *Definitions Continued*

- What is a Person with a Disability?
  - A person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or who is regarded as having such an impairment.
  - What is a Major Life Activity?
  - Basic activities that the average person in the general population can perform with little or no difficulty.

## *Scope: What and Who is Covered*

- Section 508 focuses on technology and therefore doesn't have a definition of disability. Section 504 follows federal funds. Grantees, education inst., etc., receiving federal funds need to be in compliance. Section 508 doesn't have the same connection to funding.
- Agencies have independent obligations under each law. While your information may be 508 compliant, you will still need to provide accommodations to employees with disabilities.

## *Scope: What and Who is Covered*

- Certain disabilities may not be addressed by 508. However, people with these disabilities are still entitled to reasonable accommodations.
- Electronic plus IT is designed to cover items like facsimile, copiers and printers not covered under Clinger-Cohen. Exclusions include HVAC, microwave ovens, refrigerators, medical diagnostic equipment.
- Shared equipment must be accessible, regardless whether a person with a disability is expected to use it. Assistive technology is not required at every station.

# *Relationship to Other Regulations and Directives*



- Section 504 deals with all of an Agency's programs including employment and public services.
- Section 501 deals with employment standards including reasonable accommodation.
- A recent Executive Order requires agencies to hire 100,000 people with significant disabilities over the next 5 years. Doesn't include current employees or people with a record of disabilities.



# *Enforcement*

- Section 508 coordinators are not responsible for agency compliance.
- Legislation doesn't provide for monetary damages.  
There is no enforcement provision for enforcement of 508 outside of procurement.
- There are two ways to file a claim under 508
  - Administrative complaints follow 504 processes
  - Filing suit, which may not require an initial complaint
  - DOJ will provide training and materials on Alternative Dispute Resolution

## *Suggestions*



- Need clarification on some technical and/or complex issues (e.g., GOCO, credit cards, unions, interaction among agencies with exempt information)
- Need guidelines as detailed as web accessibility for non-web applications and hardware
- Need guidelines on handling complaints
- Could use an outside resource to independently review ADR and compliance problems.

## *Suggestions -- Continued*

- Vendors should be notified of problems and given a period of time to resolve before pursuing ADR or other measures. Could be written into contract language.
- Vendors might be included in ADR -- they want to resolve problems promptly and avoid suits.
- Need a one-stop resource and knowledge base on what works, what breaks it, and how to fix it again.
- Need a non-public discussion forum to post questions and discuss issues. Need to post current FAQs as information is developed.

# *Other Information from “Gathering Sessions”*



- Highlights of information gathering session
  - Issues covered by other groups
  - Issues related to Legal Group

# *Issues covered by other groups*



- Procurement
  - What about contracts that pre-date the effective date with deliverables post-effective date?
  - What about leases, outsourced equipment, inter-agency agreements, gov't owned - contractor operated?
  - How does this affect credit card purchases?
  - What equipment does this apply to?

# *Issues covered by other groups*



- Testing and Assurance
  - What requirements exist for testing
    - in-house applications?
    - Kiosks, telecommunications equipment?
- Remediation
  - What needs to be remediated and when?
  - What are acceptable alternative formats?
- What about Union agreements?